

TITLE VI
PROFESSIONAL REGULATION

CHAPTER 30
DISCIPLINE

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—30.1(153) General. The board has authority to impose discipline for any violation of Iowa Code chapter 153, title IV, subtitle 3, or the rules promulgated thereunder.

650—30.2(153) Methods of discipline. The board has authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specified period.
3. Nonrenewal of license.
4. Prohibit permanently, until further order of the board or for a specified period, the engaging in specified procedures, methods or acts.
5. Probation.
6. Require additional education or training.
7. Require reexamination.
8. Order a physical or mental examination.
9. Impose civil penalties not to exceed \$10,000 where specifically provided by rules.
10. Issue citation and warning.
11. Such other sanctions allowed by law as may be appropriate.

650—30.3(153) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative seriousness of the violation as it relates to assuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating circumstances or other countervailing considerations.
4. Number of prior violations or complaints.
5. Seriousness of prior violations or complaints.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee.

650—30.4(153) Grounds for discipline. The following shall constitute grounds for the imposition by the board of one or more of the disciplinary sanctions set forth in rule 650—30.2(153) specifically including the imposition of civil penalties not to exceed \$10,000.

1. Fraud or deceit in procuring a resident dentist license, faculty permit, or license to practice dentistry or dental hygiene, whether by examination or credentials. Fraud or deceit shall mean any false or misleading statement of a material fact or omission of information required to be disclosed.
2. Fraud or deceit in renewing a resident dentist license, faculty permit, or other license to practice dentistry or dental hygiene, including but not limited to false or misleading statements concerning continuing education required for renewal.
3. Fraud in representation as to skill or ability whether by words or conduct, false or misleading allegations, or concealment of that which should have been disclosed, including but not limited to false or misleading statements contained in advertising allowed by these rules.

4. Conviction of a felony if the felony conviction relates to the practice of dentistry or dental hygiene.

5. Habitual use of drugs or intoxicants rendering unfit for practice.

6. Practicing dentistry or dental hygiene while in a state of advanced physical or mental disability where such disability renders the licensee incapable of performing professional services or impairs functions of judgment necessary to the practice.

7. Making suggestive, lewd, lascivious or improper advances to a patient.

8. Willful and gross malpractice.

9. Willful and gross neglect.

10. Obtaining any fee by fraud or misrepresentation.

11. Splitting fees, accepting rebates, or accepting commissions from any source associated with the service rendered to the patient except as provided elsewhere by law or rule. The sharing of income in a partnership or association shall not be construed as splitting fees nor shall compensating dental hygienists on the basis of a percentage of the fee received for the overall service be deemed accepting a commission.

12. Failure to pay fees required by these rules.

13. Unprofessional conduct including, but not limited to, those acts defined by Iowa Code section 153.32 and 650—Chapter 27.

14. Using or attempting to use any patient recall list, records, reprints or copies thereof, or any information gathered from patients served by a dental hygienist in the office of a prior employer unless such names appear on a recall list of the new employer through the legitimate practice of dentistry.

15. Engaging in the practice of dentistry or dental hygiene in Iowa after failing to renew a license to practice in Iowa within 90 days of expiration of the license.

16. Failure to maintain a satisfactory standard of competency.

17. Failure to maintain adequate safety and sanitary conditions for a dental office.

18. Indiscriminately or promiscuously prescribing or dispensing any drug or prescribing or dispensing any drug for other than lawful purposes.

19. Encouraging, assisting or enabling the unauthorized practice of dentistry in any manner.

20. Associating with a dental laboratory or technician where the dentist delegates or permits the assumption by the dental laboratory or dental laboratory technician of any service constituting the practice of dentistry or where the laboratory or technician holds itself out to the public in any way as selling, supplying, furnishing, constructing, repairing or altering prosthetic dentures, bridges, orthodontic or other appliances or devices to be used as substitutes for or as part of natural teeth or associated structures, or for correction of malocclusions or deformities.

21. Failure to prominently display the name of all persons who are practicing dentistry within an office.

22. Employment of or permitting an unlicensed dentist to practice dentistry.

23. Failure to comply with the decision of the board imposing discipline.

24. Failure to report any of the following:

Any acts or omissions which could result in the suspension or revocation of a license when committed by a person licensed to practice dentistry or dental hygiene.

Every adverse judgment in a professional malpractice action to which the licensee was a party.

Every settlement of a claim against the licensee alleging malpractice.

25. Advertising of any kind or character or through any mode or media except as is expressly authorized by the rules of the board.

26. Employing or making use of advertising solicitors or publicity agents or soliciting employment personally or by representative except as is expressly authorized by rules of the board.

27. Employing any person to obtain, contract for, sell or solicit patronage, or make use of free publicity press agents except as is expressly authorized by rules of the board.

28. Any violation of any provision of Iowa Code chapter 153, or for being a party to or assisting in any violation of any provision of Iowa Code chapter 153.

29. Any willful or repeated violations of Iowa Code chapter 153, or for being a party to or assisting in any violation of any provision of Iowa Code chapter 153.

30. Knowingly submitting a false continuing education reporting form or failure to meet the continuing education requirements for renewal of an active license.

31. Failure to notify the board of change of address within 60 days.

32. Failure to report a license revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country within 30 days of the final action by the licensing authority. A stay by an appellate court shall not negate this requirement; however, if the disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board when the board is so notified.

33. Failure to comply with a subpoena issued by the board.

34. Engaging in the practice of dentistry or dental hygiene with an expired or inactive renewal.

35. Failure to comply with the recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures issued by the Centers for Disease Control of the United States Department of Health and Human Services.

36. Failure to comply with the recommendations of the expert review panel established pursuant to Iowa Code subsection 139C.2(3) and applicable hospital protocols established pursuant to subsection 139C.2(1).

37. Failure to comply with the infection control standards which are consistent with the standards set forth in 347—Chapters 10 and 26.

38. Failure to fully and promptly comply with office inspections conducted at the request of the board to determine compliance with sanitation and infection control standards.

39. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

40. Habitual intoxication or addiction to the use of drugs.

41. Noncompliance with a support order or with a written agreement for payment of support as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 252J. Disciplinary proceedings initiated under this subrule shall follow the procedures set forth in Iowa Code chapter 252J and Iowa Administrative Code 650—Chapter 33.

42. Receipt of a certificate of noncompliance issued by the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127. Disciplinary proceedings initiated under this subrule shall follow the procedures set forth in Iowa Code sections 261.121 to 261.127 and Iowa Administrative Code 650—Chapter 34.

650—30.5(153) Impaired practitioner review committee. Pursuant to the authority of Iowa Code section 272C.3(1) “k,” the board establishes the impaired practitioner review committee.

30.5(1) Definitions.

“*Impaired practitioner program contract*” or “*contract*” means the written document establishing the terms for participation in the impaired practitioner program prepared by the impaired practitioner review committee.

“*Impairment*” means an inability to practice dentistry or dental hygiene with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any neuropsychological or physical disorder or disability.

“*IPP*” or “*program*” means the impaired practitioner program.

“*IPRC*” or “*committee*” means the impaired practitioner review committee.

“*Self-report*” means the licensee providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging an impairment prior to the date of self-report.

30.5(2) Purpose. The IPRC evaluates, assists, monitors and, as necessary, makes reports to the board on the recovery or rehabilitation of dentists or dental hygienists who self-report impairments. Reports on the activities of the IPRC shall be made to the board on a quarterly basis.

30.5(3) Composition of the committee. The chairperson of the board shall appoint the members of the IPRC. The membership of the IPRC may include, but is not limited to:

- a. Executive director of the board or the director’s designee from the board’s staff;
- b. One licensee who has remained free of addiction for a period of no less than two years since successfully completing a recovery program for drug or alcohol dependency, addiction, or abuse;
- c. One physician/counselor with expertise in substance abuse/addiction treatment programs;
- d. One physician with expertise in the diagnosis and treatment of neuropsychological disorders and disabilities; and
- e. One public member.

30.5(4) Eligibility. To be eligible for participation in the IPP, a licensee must self-report an impairment or suspected impairment directly to the office of the board. A licensee is deemed ineligible to participate in the program if the board or committee finds evidence of any of the following:

- a. The licensee engaged in the unlawful diversion or distribution of controlled substances or illegal substances;
- b. At the time of the self-report, the licensee is already under board order for an impairment or any other violation of the laws and rules governing the practice of the profession;
- c. The licensee has caused harm or injury to a patient;
- d. There is currently a board investigation of the licensee that concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care;
- e. The licensee has been subject to a civil administrative or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or a foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of dentistry or dental hygiene; or
- f. The licensee failed to provide truthful information or to fully cooperate with the board or committee.
- g. There is currently a complaint before the board.

30.5(5) Type of program. The IPP is an individualized recovery or rehabilitation program designed to meet the specific needs of the impaired practitioner. The committee shall meet with the licensee and, upon the recommendation of an IPRC-approved evaluator, shall determine the type of recovery or rehabilitation program required to treat the licensee’s impairment. The committee shall prepare a contract, to be signed by the licensee, that shall provide a detailed description of the goals of the program, the requirements for successful completion, and the licensee’s obligations therein.

30.5(6) Terms of participation. A licensee shall agree to comply with the terms for participation in the IPP established in the contract. Terms of participation specified in the contract shall include, but are not limited to:

a. Duration. The length of time a licensee shall participate in the program shall be determined by the committee in accordance with the following:

(1) Participation in the program for licensees impaired as a result of chemical dependency or alcohol or substance abuse or addiction is set at a minimum of four years.

(2) Length of participation in the program for licensees with impairments resulting from neuro psychological or physical disorders or disabilities will vary depending upon the recommendations for treatment provided by a qualified evaluator designated by the committee to establish an appropriate treatment protocol.

b. Noncompliance. A licensee participating in the program is responsible for notifying the committee of any instance of noncompliance including, but not limited to, a relapse. Notification of non-compliance made to the IPRC by the licensee, any person responsible for providing or monitoring treatment, or another party shall result in full review by the board for the filing of formal charges or other action the board deems appropriate.

c. Practice restrictions. The IPRC may impose restrictions on the license to practice dentistry or dental hygiene as a term of the contract until such time as it receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a licensee is required to agree to restrict practice in accordance with the terms specified in the contract. In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee shall refer the licensee to the board for appropriate action.

30.5(7) Limitations. The IPRC establishes the terms and monitors a participant's compliance with the program specified in the contract. The IPRC is not responsible for participants who fail to comply with the terms of or successfully complete the IPP. Participation in the program under the auspices of the IPRC shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of dentistry or dental hygiene by a participant shall be referred to the board for appropriate action.

30.5(8) Confidentiality. The IPRC is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information in the possession of the board or the committee about licensees in the program shall not be disclosed to the public. Participation in the IPP under the auspices of the IPRC is not a matter of public record.

This chapter is intended to implement Iowa Code sections 153.34(9), 252H.10, 272C.3(1)“k,” 272C.3(2)“e,” 272C.4, 272C.5, 272C.10, 598.21(4)“e,” and 598.21(8) and Iowa Code chapter 252J.

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